Kimberly S. Oberrecht [C.S.B. No. 190794]
Jacob R. Felderman [C.S.B. No. 229400]
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Attorneys for Defendants GUNNAR MOURITZEN and CAROLINA MOURITZEN, Trustees of the MOURITZEN FAMILY TRUST (erroneously sued herein as GUNNAR MOURITZEN, Trustee of the GUNNAR MOURITZEN TRUST; CAROLINA MOURITZEN, Trustee of the CAROLINA MOURTIZEN TRUST)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LUIS BARRIA, Plaintiff, vs. GUNNAR MOURITZEN, Trustee of the GUNNAR MOURITZEN TRUST; CAROLINA MOURITZEN, Trustee of the CAROLINA MOURTIZEN TRUST, and Does 1 through 10, Inclusive, Defendants.	**CASE NO. '08 CV 0264 L LSP** **ANSWER TO COMPLAINT AND DEMAND FOR JURY TRIAL**

Defendants GUNNAR MOURITZEN and CAROLINA MOURITZEN, Trustees of the MOURITZEN FAMILY TRUST (erroneously sued herein as GUNNAR MOURITZEN, Trustee of the GUNNAR MOURITZEN TRUST; CAROLINA MOURITZEN, Trustee of the CAROLINA MOURTIZEN TRUST) hereby demand trial by jury.

COME NOW Defendants, GUNNAR MOURITZEN and CAROLINA MOURITZEN, Trustees of the MOURITZEN FAMILY TRUST (erroneously sued herein as GUNNAR MOURITZEN, Trustee of the GUNNAR MOURITZEN TRUST; CAROLINA MOURITZEN, Trustee of the CAROLINA MOURTIZEN TRUST), and answers the Complaint of Plaintiff, LUIS BARRIA, on file herein as follows:

Pursuant of the Provisions of Federal Rule of Civil Procedure 8(b), these answering Defendants admit and deny certain allegations:

I.

JURISDICTION AND VENUE

Responding to Paragraph 1

As to paragraph 1, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 2

As to paragraph 2, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 3

As to paragraph 3, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

II.

PARTIES

Responding to Paragraph 4

As to paragraph 4, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 5

As to paragraph 5, Defendants admit that MOURITZEN FAMILY TRUST is the owner of the real property wherein Beyer Trolley Apartments operates.

Responding to Paragraph 6

As to paragraph 6, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

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Responding to Paragraph 7

As to paragraph 7, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 8

As to paragraph 8, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 9

As to paragraph 9, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 10

As to paragraph 10, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

III.

FACTS

Responding to Paragraph 11

As to paragraph 11, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 12

As to paragraph 12, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 13

As to paragraph 13, Defendants are without sufficient knowledge or information to form a

belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 14

As to paragraph 14, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 15

As to paragraph 15, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 16

As to paragraph 16, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 17

As to paragraph 17, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 18

As to paragraph 18, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 19

As to paragraph 19, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 20

As to paragraph 20, Defendants are without sufficient knowledge or information to form a

belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 21

As to paragraph 21, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

IV.

FIRST CLAIM FOR VIOLATION OF AMERICAN WITH DISABILITIES ACT 42 USC §12101, et seq.

Responding to Paragraph 22

As to paragraph 22, Defendants respond to and incorporate by reference paragraphs 1 through 21, as though fully set forth herein.

Responding to Paragraph 23

As to paragraph 21, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 24

As to paragraph 21, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 25

As to paragraph 21, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

V.

SECOND CLAIM FOR VIOLATION OF REHABILITATION ACT OF 1973

Responding to Paragraph 26

As to paragraph 26, Defendants respond to and incorporate by reference paragraphs 1 through 25, as though fully set forth herein.

Responding to Paragraph 27

As to paragraph 27, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 28

As to paragraph 28, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 29

As to paragraph 29, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 30

As to paragraph 30, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 31

As to paragraph 31, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 32

As to paragraph 32, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 33

As to paragraph 33, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

VI.

THIRD CLAIM FOR VIOLATION OF FAIR HOUSING ACT

Responding to Paragraph 34

As to paragraph 34, Defendants respond to and incorporate by reference paragraphs 1 through 33, as though fully set forth herein.

Responding to Paragraph 35

As to paragraph 35, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 36

As to paragraph 36, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 37

As to paragraph 37, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 38

As to paragraph 38, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 39

As to paragraph 39, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 40

As to paragraph 40, Defendants are without sufficient knowledge or information to form a

belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 41

As to paragraph 41, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

VII.

FOURTH CLAIM FOR VIOLATION OF CALIFORNIA CIVIL CODE

Responding to Paragraph 42

As to paragraph 42, Defendants respond to and incorporate by reference paragraphs 1 through 41, as though fully set forth herein.

Responding to Paragraph 43

As to paragraph 43, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 44

As to paragraph 44, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 45

As to paragraph 45, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 46

As to paragraph 46, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

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Responding to Paragraph 47

As to paragraph 47, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

VIII.

FIFTH CLAIM FOR VIOLATION OF HEALTH AND SAFETY CODE §19955, ET SEQ.

Responding to Paragraph 48

As to paragraph 48, Defendants respond to and incorporate by reference paragraphs 1 through 47, as though fully set forth herein.

Responding to Paragraph 49

As to paragraph 49, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 50

As to paragraph 50, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 51

As to paragraph 51, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

IX.

SIXTH CLAIM FOR NEGLIGENCE PER SE

Responding to Paragraph 52

As to paragraph 52, Defendants respond to and incorporate by reference paragraphs 1 through 51, as though fully set forth herein.

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Responding to Paragraph 53

As to paragraph 53, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 54

As to paragraph 54, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 55

As to paragraph 55, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 56

As to paragraph 56, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 57

As to paragraph 57, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

X.

SEVENTH CLAIM FOR NEGLIGENCE

Responding to Paragraph 58

As to paragraph 58, Defendants respond to and incorporate by reference paragraphs 1 through 57, as though fully set forth herein.

Responding to Paragraph 59

As to paragraph 59, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 60

As to paragraph 61, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 61

As to paragraph 61, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

XI.

EIGHTH CLAIM FOR DECLARATORY RELIEF

Responding to Paragraph 62

As to paragraph 62, Defendants respond to and incorporate by reference paragraphs 1 through 61, as though fully set forth herein.

Responding to Paragraph 63

As to paragraph 63, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 64

As to paragraph 64, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

XII.

NINTH CLAIM FOR INJUNCTIVE RELIEF

Responding to Paragraph 65

As to paragraph 65, Defendants respond to and incorporate by reference paragraphs 1 through 64, as though fully set forth herein.

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Responding to Paragraph 66

As to paragraph 66, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 67

As to paragraph 67, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

Responding to Paragraph 68

As to paragraph 68, Defendants are without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on that basis, denies each and every allegation contained therein.

XIII.

AFFIRMATIVE DEFENSES

AS AND FOR A FIRST, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

CONTRIBUTORY NEGLIGENCE OF PLAINTIFF

That at all times and places set forth in the Complaint, Plaintiff failed to exercise ordinary care on his own behalf, which negligence and carelessness was a proximate cause of some portion, up to and including the whole thereof, of the injuries and damages complained of in this action. Plaintiff's recovery therefore against these answering Defendants should be barred or reduced according to principles of comparative negligence.

AS AND FOR A SECOND, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

COMPARATIVE FAULT OF CO-DEFENDANTS

At all times and places set forth in the Complaint, parties Defendant, other than these answering Defendants, failed to exercise ordinary care on their own behalf, which negligence and carelessness was a proximate cause of some portion, up to and including the whole thereof, of the injuries and damages complained of by Plaintiff in this action. The fault, if any, of these answering Defendants should be compared with the fault of the other Defendants and damages, if any, should be apportioned among the Defendants in direct relation to each Defendant's comparative fault. These answering Defendants should be obligated to pay only such damages, if any, which are directly attributable to their percentage of comparative fault. To require these answering Defendants to pay any more than their percentage of comparative fault violates the equal protection and due process clauses of the Constitution of the United States and the Constitution of the State of California.

AS AND FOR A THIRD, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

NEGLIGENCE ON THE PART OF THIRD PARTIES

That any injuries or damages which may have been sustained by Plaintiff were the proximate result of the negligence of third parties. For this reason, if Plaintiff has been damaged, aside from any reduction of damages attributable to his own negligence, the damages must be apportioned among the parties to this action in proportion to their respective degrees of fault.

AS AND FOR A FOURTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

NEGLIGENCE OF PLAINTIFF'S EMPLOYER (Witt v. Jackson)

That at all times and places set forth in the Complaint, Plaintiff was working in the course and scope of his employment and said company was insured as required under the Workers Compensation Act. As a result of his injuries, Plaintiff received benefits pursuant to the Workers Compensation scheme. To the extent Plaintiff's employer failed to exercise ordinary care on Plaintiff's behalf, allowed an unsafe place to exist in which Plaintiff was required to work or otherwise created conditions such as to create a peculiar risk of harm to Plaintiff, the sole or concurrent negligence of Plaintiff's employer and co-workers, entitle Defendants herein to a reduction in any judgment against them in direct proportion to the comparative fault of said employer up to and including the entire amount of such benefits paid on behalf of Plaintiff.

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AS AND FOR A FIFTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

STATUTES OF LIMITATION (Personal Injury - Negligence)

That as against these answering Defendants, Plaintiff's action is barred by the provisions of section 335.1 of the California Code of Civil Procedure.

AS AND FOR A SIXTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

ASSUMPTION OF RISK

That the perils or dangers, if any, existing at the time of Plaintiff's alleged injuries, if any, were open and obvious and known to Plaintiff who nevertheless conducted himself in such a manner so as to expose himself to said perils and dangers, if any, and by so doing, assumed all the risks attendant thereto.

AS AND FOR A SEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

IMPLIED ASSUMPTION OF RISK

Prior to the event in which the Plaintiff was allegedly injured as a result of Defendants' negligence, the Plaintiff by his conduct impliedly assumed the risk of a known and appreciated danger, and thus may not recover damages from Defendants for that injury.

AS AND FOR AN EIGHTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

FAILURE TO MITIGATE

The Plaintiff has failed to exercise reasonable care and diligence to avoid loss and to minimize damages and, therefore, Plaintiff may not recover for losses which could have been prevented by reasonable efforts on his own part, or by expenditures that might reasonably have been made. Therefore, Plaintiff's recovery, if any, should be reduced by the failure of the Plaintiff to mitigate his damages.

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AS AND FOR A NINTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

EXCLUSIVE REMEDY RULE

Pursuant to Labor Code §3601 and §3602, Plaintiff is barred from recovering from these answering Defendants under the worker's compensation exclusive remedy rule.

AS AND FOR A TENTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

ATTORNEY FEES

These answering Defendants are entitled to attorney feels for the cost of defending this action pursuant to the lease between the parties.

AS AND FOR A ELEVENTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

INDEMNIFICATION

Defendants are entitled to indemnification from Plaintiff for cost, attorney fees, expenses, and liability incurred in the defense of Plaintiff's claims.

AS AND FOR A TWELFTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

FAILURE TO STATE A CAUSE OF ACTION

The Complaint and every purported cause of action therein fails to set forth facts sufficient to state a cause of action.

AS AND FOR A THIRTEENTH, SEPARATE AND AFFIRMATIVE DEFENSE, THESE ANSWERING DEFENDANTS ARE INFORMED AND BELIEVE AND THEREON ALLEGE AS FOLLOWS:

RIGHT TO ASSERT ADDITIONAL AFFIRMATIVE DEFENSES

These answering Defendants presently have insufficient knowledge or information upon which to form a belief as to whether they may have additional, as-yet unstated, affirmative defenses. These answering Defendants reserve herein the right to assert additional affirmative defenses in the event discovery indicates to do so would be appropriate.

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WHEREFORE, these answering Defendants pray that Plaintiff take nothing by way of his Complaint on file herein, that judgment be entered in the within action in favor of these answering Defendants and against the Plaintiff upon the issues of the Complaint, together with an award to these Defendants of attorneys' fees and costs of suit herein incurred, and such other and further relief as the Court deems just.

Dated: June 26, 2008

HORTON, OBERRECHT, KIRKPATRICK & MARTHA

By:____________________

Kimberly S. Oberrecht,
Jacob R. Felderman,
Attorneys for Defendants GUNNAR MOURITZEN and CAROLINA MOURITZEN, Trustees of the MOURITZEN FAMILY TRUST (erroneously sued herein as GUNNAR MOURITZEN, Trustee of the GUNNAR MOURITZEN TRUST; CAROLINA MOURITZEN, Trustee of the CAROLINA MOURTIZEN TRUST)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Title of Case: BARRIA vs. GUNNAR MOURITZEN, ET AL. **HORTON, OBERRECHT, KIRKPATRICK & MARTHA** 225 Broadway, Suite 2200 San Diego, CA 92101 (619) 232-1183; Fax 696-5719 Attorneys for Defendants GUNNAR MOURITZEN and CAROLINA MOURITZEN, Trustees of the MOURITZEN FAMILY TRUST (erroneously sued herein as GUNNAR MOURITZEN, Trustee of the GUNNAR MOURITZEN TRUST; CAROLINA MOURITZEN, Trustee of the CAROLINA MOURTIZEN TRUST)	Case No: **'08 CV 0264 L LSP**

DECLARATION OF SERVICE VIA U.S. MAIL & CM/ECF ELECTRONIC FILING

I am employed in the County of San Diego, State of California. I am readily familiar with the business practices of this office for collection and processing of correspondence for mailing with the United States Postal Service. I am over the age of eighteen years and am not a party to the within entitled action; my business address is 225 Broadway, Suite 2200, San Diego, California 92101.

On 6/27/08, I caused the following documents:

ANSWER TO COMPLAINT AND DEMAND FOR JURY TRIAL

to be served on all parties via the Electronic Case Filing CM/ECF through the United States District Court and by placing a copy thereof in a separate envelope for each addressee named hereafter for collection and mailing on the above-indicated day pursuant to the ordinary course of business practice of this office which is that correspondence for mailing is collected and deposited with the United States Postal Service on the same day in the ordinary course of business addressed to each such addressee respectively as follows:

Thomas J. Vandeveld, III
VANDEVELD LAW OFFICES
P.O. Box 1764
Bonita, CA 91908-1764
(619) 232-5299; (619) 475-6908 fax
tomvlawyer@cox.net

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on 6/27/08.

Tara L. Frank